IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 26093 of 2006(F)

PETITIONER:

SHINY AMBROSE,
THANNIPILLY HOUSE, POWER HOUSE ROAD,
COCHIN-18.

BY ADV. SRI.BABU CHERUKARA

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANADU.

2. CORPORATION OF COCHIN,
COCHIN-11, REPRESENTED BY THE SECRETARY.

3. POLLUTION CONTROL BOARD,
KAKKANADU.

4. REV. VIEAR,
ST.MARY'S BASILICA, BROADWAY, ERNAKULAM.

BY ADV. SRI.PRAVEEN K.JOY,SC,COCHIN CORPORATION
SRI. M.K.CHANDRAMOHANDAS FOR R3
SRI. JIMMY JOHN VELLANIKARAN FOR R4.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 26093 of 2006(F)

PETITIONER'S EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF THE DOCUMENT NO.2926 OF 2002 DATED 23.07.02.

EXT.P2: TRUE PHOTOCOPY OF THE TAX RECEIPT DATED 24.05.06 FOR THE BUILDING 42/936.

EXT.P3: TRUE PHOTOCOY OF THE RATION CARD OF THE PETITIONER'S FAMILY.

EXT.P4: TRUE PHOTOCOPY OF THE PHOTOGRAPHS.

EXT.P5: TRUE PHOTOCOPY OF THE PETITION DATED 29.09.06 BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P6: TRUE PHOTOCOPY OF THE NOTICE DATED 30.09.06 BY THE PETITIONER'S ADVOCATE.

EXT.P7: TRUE PHOTOCOPY OF THE WRITTEN AUTHORISATION DATED 3.10.06.

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THOTTATHIL B. RADHAKRISHNAN, J

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W.P.(C) No.26093 Of 2006

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Dated this the 30th day of November, 2006.

J U D G M E N T

St. Mary's Basilica represented by the 4th respondent holds a cemetery. It is a very old one, stated to be more than 100 years old. The petitioner purchased a piece of land adjoining the said cemetery and put up a residential building, stated to be in 1954. He now complains that the burial of corpses near to his boundary wall is in violation of the municipal laws. The burial and burning grounds are governed by the statutory rules. These rules empower the Collector to decide on the question of issuing licence. No fresh licence is required under those rules for an existing cemetery. This is a well established law. So much so, if there is any complaint relating to any activity within that cemetery, such complaint will have to be taken care of only by the Collector, of course, with the junction of the Secretary, Local Authority.

2. Under such circumstances, in spite of having noticed the views of the Collector, as placed by the learned Government pleader, it is appropriate that the petitioner and the 4th respondent are given an opportunity of being heard by the District Collector on Ext.P6. The

District Collector will decide upon the said complaint after obtaining the suggestions of the Secretary of the Corporation. Let that be done within a period of two months from the date of receipt of a copy of this judgment. The Secretary of the Corporation is directed to place his comments before the District Collector within a period of two weeks from the date of receipt of a copy of this judgment.

This writ petition is disposed as above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

SJ